



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|--|-------------|-------------------------|---------------------|------------------|
| 10/807,030 | 03/23/2004 | Christoph Lindenschmidt | 588.1020 | 2253 |
| 23280 | 7590 | 12/12/2006 | EXAMINER | |
| DAVIDSON, DAVIDSON & KAPPEL, LLC 485 SEVENTH AVENUE, 14TH FLOOR NEW YORK, NY 10018 | | | PANG, ROGER L | |
| | | | ART UNIT | PAPER NUMBER |
| | | | 3681 | |

DATE MAILED: 12/12/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Advisory Action
Before the Filing of an Appeal Brief**

Application No.

10/807,030

Applicant(s)

LINDENSCHMIDT ET AL.

Examiner

Roger L. Pang

Art Unit

3681

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 27 November 2006 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 4 months from the mailing date of the final rejection.
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).


4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☐ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: _____.
Claim(s) objected to: _____.
Claim(s) rejected: _____.
Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation Sheet.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). _____.
13. ☐ Other: _____.


Roger L. Pang
Primary Examiner
Art Unit: 3681

Continuation of 11. does NOT place the application in condition for allowance because: With regard to applicant's arguments, first, the combination of Gierer and Sponable will be explained in further detail:

Gierer teaches a parking lock device and controller. The device required hydraulic fluid to move piston 2 against the tension of spring 6 to reach the parking lock disengaged position. However, in column 2, Gierer teaches that the magnet is turned on, which causes element to move up ramp 9/10 and get into locked positions. "The tension of the spring cannot activate the parking brake, since the locking system elements retain the piston in its position until the magnet is switched off-circuit. Applicant does not claim that "only" the magnet itself initiates the parking lock off position and keeps it unlocked. As understood, hydraulic fluid will push piston toward the unlocked position, and the "holding magnet" keeps the parking lock unlocked.

Sponable teaches a transmission which has a parking lock within the transmission, and controls of said lock. Gierer concentrates on the parking lock mechanism itself, while Sponable has a broader view of the vehicle, and teaches the controls and environment for the parking lock. Disregarding the details of the actual parking lock device in Sponable, Sponable teaches a basic control setting (Neutral) of the transmission control 18. During this basic setting, the parking lock is held in a disengaged state. The reset operation can be "bridged" by engaging another gear, or changing the parking lock status. Applicant never claims a limitation actually linking the bridging of the reset operation and the parking lock control itself.

Therefore, the combination of Gierer and Sponable creates a transmission, with a resettable basic setting (neutral), which can be bridged (not in neutral), and during the reset operation (Neutral), the parking lock is kept off, and since the device of Gierer is being used, the magnet would be kept on.

Gierer teaches that the magnet is supplied with power via a controller to hold it unlocked, while Sponable teaches that the parking lock is held in the unlocked position during Neutral.

Control Device 19 in Gierer can be any control of the vehicle, and for the purposes of this action, since Sponable is used to show the parking lock within the environment of a transmission, control device 19 is a "transmission control."

The actual device and power control teachings of Sponable are not used in the combination. The only teachings being used are the environment, and the parking lock controls during Neutral and otherwise.

Gierer is not being modified to change the functionality of the magnet. The magnet is turned on to keep the parking lock in the disengaged position, which is the claim of the present invention.

Once again, if applicant believes the basic reset position, and the "bridging apparatus" have different meanings than those being used for the rejection, then applicant should specifically claim the differences.